

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF LOUISIANA

UNITED STATES OF AMERICA and
STATE OF LOUISIANA,

Plaintiffs,

v.

AMERICAN COMMERCIAL BARGE
LINE LLC,

Defendant.

Civil Action No.: 2:21-cv-01818

**CONSENT DECREE
WITH AMERICAN COMMERCIAL BARGE LINE LLC**

TABLE OF CONTENTS

I.	BACKGROUND.....	2
II.	JURISDICTION AND VENUE	7
III.	PARTIES BOUND	8
IV.	DEFINITIONS.....	8
V.	STATEMENT OF PURPOSE.....	11
VI.	PAYMENTS BY SETTLING DEFENDANT.....	11
VII.	SETTLING DEFENDANT’S RESTORATION PROJECT OBLIGATIONS	14
VIII.	TRUSTEE-IMPLEMENTED NATURAL RESOURCE RESTORATION... 	15
IX.	FORCE MAJEURE	17
X.	DISPUTE RESOLUTION	19
XI.	STIPULATED PENALTIES.....	21
XII.	COVENANTS NOT TO SUE BY THE PLAINTIFFS	24
XIII.	RESERVATION OF RIGHTS BY PLAINTIFFS	25
XIV.	COVENANTS BY SETTLING DEFENDANT	27
XV.	EFFECT OF SETTLEMENT	27
XVI.	NOTICES AND SUBMISSIONS.....	28
XVII.	CERTIFICATION	29
XVIII.	INTEGRATION / APPENDICES	30
XIX.	EFFECTIVE DATE AND RETENTION OF JURISDICTION.....	30
XX.	CONSENT DECREE MODIFICATIONS	31
XXI.	LODGING AND OPPORTUNITY FOR PUBLIC COMMENT	31
XXII.	SIGNATORIES / SERVICE	32
XXIII.	FINAL JUDGMENT.....	32

I. BACKGROUND

A. The United States of America (“United States”), on behalf of the United States Department of the Interior (“DOI”), United States Fish and Wildlife Service (“FWS”), United States Department of Commerce (“Commerce”), National Oceanic and Atmospheric Administration (“NOAA”), and the State of Louisiana, appearing through the Louisiana Oil Spill Coordinator’s Office, Department of Public Safety (“LOSCO”), Louisiana Department of Natural Resources (“LDNR”), Louisiana Department of Environmental Quality (“LDEQ”), Louisiana Department of Wildlife and Fisheries (“LDWF”), and the Coastal Protection and Restoration Authority (“CPRA”) have filed a complaint against AMERICAN COMMERCIAL BARGE LINE LLC (“Settling Defendant”) in this Court alleging that the Settling Defendant is liable to the United States and Louisiana under Section 1002(a) and (b) of the Oil Pollution Act of 1990 (“OPA”), 33 U.S.C. § 2702 (a) and (b)(2), and Section 2480 of the Louisiana Oil Spill Prevention and Response Act (OSPRA), La. Rev. Stat. 30:2480, for damages for injury to, destruction of, loss of, or loss of use of, Natural Resources, resulting from an oil spill caused by the collision of the ocean-going tanker M/V TINTOMARA with tanker barge DM-932 (“DM-932”) under tow by the M/V MEL OLIVER on the Mississippi River near New Orleans, Louisiana in 2008 (the “NRD Complaint”). At all times relevant to this action, Settling Defendant was the owner of the tug M/V MEL OLIVER (which at the time was operated by D.R.D. Towing Co., LLC under a bareboat charter), the tanker barge DM-932, and DM-932’s fuel oil cargo.

B. By way of background, on August 22, 2011, the United States filed a complaint, Case No. 2:11-cv-02076-CJB-ALC (E.D. La.) (Doc. 1) (the “2011 Complaint”), against Settling Defendant and D.R.D. Towing Co., LLC asserting claims under the Clean Water Act (“CWA”),

33 U.S.C. §§ 1251-1376, OPA, 33 U.S.C. §§ 2701-61, and the Declaratory Judgment Act, 28 U.S.C. § 2201-02, arising out of the same vessel collision and oil spill in the Mississippi River. In November 2014, the United States agreed to dismiss without prejudice its claims for “damages” related to “injuries to, destruction of, loss of, or loss of use of natural resources” under OPA and the Declaratory Judgment Act (the “NRDA Claims”) to provide the Parties an opportunity to amicably resolve the NRDA Claims (Doc. 107). The United States also withdrew its claims for CWA civil penalties. In its Amended Complaint filed December 10, 2014 (Doc. 110), the United States sought only a declaratory judgment that the defendants were jointly and severally liable without limitation under Section 1002(a) of OPA, 33 U.S.C. § 2702(a), for all removal costs and damages resulting from the oil spill in the Mississippi River and an award of the sum of removal cost and damage claims satisfied by the Oil Spill Liability Trust Fund in the amount of \$23,180,790.68 (the “Removal Cost Claim”). In October 2016, the United States and Settling Defendant agreed to settle the Removal Cost Claim for \$20,000,000 (Doc. 206). On August 27, 2018, the United States filed a Satisfaction of Judgment (Doc. 220) certifying to the Court that Settling Defendant has fully paid the sum of \$20,000,000 pursuant to the Order and Judgment (Doc. 208). The NRDA Claims were unaffected by that Order and Judgement, and now the Parties seek to resolve the NRDA Claims.

C. Now, the United States, on behalf of DOI, NOAA, and the State of Louisiana, appearing through the LOSCO, LDNR, LDEQ, LDWF, and the CPRA and Settling Defendant seek to resolve the NRDA Claims. The United States and Louisiana have filed the NRD Complaint against Settling Defendant in this Court alleging that the Settling Defendant is liable to the United States and Louisiana under Section 1002(a) and (b) of OPA, 33 U.S.C. § 2702 (a) and (b)(2), and Section 2480 of the OSPRA, La. Rev. Stat. 30:2480, for damages for injury to,

destruction of, loss of, or loss of use of, Natural Resources, resulting from an oil spill caused by the collision of the ocean-going tanker M/V TINTOMARA with tanker barge DM-932 under tow by the M/V MEL OLIVER on the Mississippi River near New Orleans, Louisiana in 2008. At all times relevant to this action, Settling Defendant was the owner of the tug M/V MEL OLIVER (which at the time was operated by D.R.D. Towing Co., LLC under a bareboat charter), the tanker barge DM-932, and DM-932's fuel oil cargo.

D. The NRD Complaint alleges that, on or about July 23, 2008, the M/V TINTOMARA was sailing downbound on the Lower Mississippi River. The NRD Complaint further alleges that, at the same time, the tug M/V MEL OLIVER was pushing tanker barge DM-932, which was carrying 9,983 barrels (419,286 gallons) of #6 fuel oil, upriver and that, as the vessels closed, the M/V MEL OLIVER began an arcing turn to port and crossed in front of the M/V TINTOMARA, which struck barge DM-932, causing the release of an estimated 6,734 barrels (282,828 gallons) of #6 fuel oil - a viscous oil, into the waters of the Mississippi River over a two-week period (the "Spill"). All of the foregoing events are referred to as the "Incident." The Incident release lasted until August 10, 2008, when final salvage efforts were completed.

E. The Incident occurred during a high water event along the Mississippi River and oil was transported downstream rapidly. By day two of the Incident, aerial reconnaissance surveys revealed sheens and tar patties at Head of Passes and farther downriver, in addition to oil having entered marsh areas through breaks in the river bank. As the waters receded, oil became stranded in the batture between the river and the adjacent levees, on rip-rap, in crevices in rip-rap, and along the shoreline. The NRD Complaint alleges that oil spread more than 100 miles downriver and covered over 5,000 acres of shoreline habitat, although large amounts of the #6

fuel oil remained present near the Incident site. As a result of the Spill, the United States Coast Guard (“USCG”) closed the River from RMM 98 (just upriver from New Orleans) to the Southwest Pass Sea Buoy. The closure was in place from July 23, 2008 until July 29, 2008, affecting commerce and human use activities such as recreational fishing and shoreline use. The NRD Complaint further alleges that the Incident generated several days of public complaints related to the odors from the oil.

F. The NRD Complaint further alleges that oil from the Incident caused injuries to, destruction of, loss of, or loss of use of, Natural Resources belonging to, managed by, held in trust by, appertaining to, or otherwise controlled by the United States and Louisiana.

G. Pursuant to Executive Order 12580 and the National Contingency Plan (“NCP”), 40 C.F.R. Part 300, Commerce, through NOAA, and DOI, through FWS, have been delegated authority to act on behalf of the public as the Federal Trustees for Natural Resources impacted by the Incident. Pursuant to Section 1006(b)(3) of OPA, 33 U.S.C. §2706(b)(3), and Subpart G of the NCP, the Governor of Louisiana has designated LOSCO, LDNR, LDEQ, LDWF, and CPRA¹ to act on behalf of the public as trustees for Natural Resources under OPA. These same agencies serve as State Trustees under OSPRA according to La. R.S. 30:2451, *et seq.* and LA. ADMIN. CODE tit. 43, part XXIX, *et seq.* The United States and the State of Louisiana share trusteeship of the Natural Resources injured as a result of the Spill and are coordinating restoration efforts.

H. After the Incident, DOI, NOAA, LOSCO, LDNR, LDEQ and LDWF as Trustees for Natural Resources allegedly injured by the Incident and the Settling Defendant entered into a

¹ CPRA was designated a State Trustee for Natural Resources in May 2010.

cooperative Natural Resource Damage Assessment process, pursuant to which the Trustees and the Settling Defendant jointly and independently planned and conducted a number of injury assessment activities. These activities included gathering and analyzing data and other information that the Trustees used to determine and quantify the resource injuries and damages. As a result of this process and other activities, the Trustees found that the Incident adversely affected riverine batture habitat, aquatic/water column organisms, birds, and marsh; and resulted in lost recreation and lost use of marsh restoration material. The Settling Defendant contests the Trustees' findings and determinations.

I. Since the Incident, the Trustees have worked to identify a set of potential restoration actions that would contribute to the restoration, replacement, or acquisition of the equivalent of the Natural Resources the Trustees allege were injured, destroyed, or lost as a result of the Incident. In doing so, the Trustees have developed a potential restoration project (the "Restoration Project") for this matter, consisting of multiple components, including the acquisition of habitat, restoration and management of acquired lands, a crevasse splay, and recreational use improvements. This potential restoration project is serving as the basis for settlement, in part. The settlement is two-fold, including, as set forth in this Consent Decree: (1) a cash payment value the Trustees have developed based upon (a) the restoration and management of acquired lands, crevasse splay, and recreational use components of the Restoration Project, which would be implemented by the Trustees, and (b) payment of Trustee costs, and (2) the requirement that the Settling Defendant undertake the land acquisition component of the Restoration Project, *i.e.*, that the Settling Defendant fulfill its obligations under this Consent Decree to effect the transfer of title of a certain real property parcel of approximately 649.11 acres in Plaquemines Parish near English Turn (the "Woodlands Parcel")

to the Woodlands Conservancy. The Woodlands Parcel contains hardwood forested wetlands, swamp, relic wetlands, and open waters. The Woodlands Parcel is important to migrating birds due to its location near the Mississippi River and the high loss of much of the forested wetlands in the area near New Orleans. The Woodlands Parcel will be protected with a conservation servitude in substantially the same form and substance as Appendix B to this Consent Decree that restricts future use(s) of the Woodlands Parcel in perpetuity in a manner sufficient to protect and preserve the ecological benefits of the Woodlands Parcel acquisition and of the restoration and management of the Woodlands Parcel.

J. By entering into this Consent Decree, Settling Defendant does not admit or agree that the Trustees' findings and determinations are accurate and does not admit any liability to Plaintiffs arising out of the transactions or occurrences alleged in the NRD Complaint.

K. The Parties to this Consent Decree recognize, and the Court by entering this Consent Decree finds, that this Consent Decree: (i) has been negotiated by the Parties in good faith; (ii) will avoid prolonged and complicated litigation among the Parties; (iii) will expedite Natural Resource protection and restoration actions to be performed by the Trustees; and (iv) is fair, reasonable, and in the public interest.

NOW, THEREFORE, with the consent of the Parties to this Decree, it is hereby ORDERED, ADJUDGED, and DECREED:

II. JURISDICTION AND VENUE

1. This Court has jurisdiction over the subject matter of this action pursuant to Section 1017(b) of OPA, 33 U.S.C. § 2717(b), and 28 U.S.C. §§ 1331, 1345, and 1367. The Court also has supplemental jurisdiction over the State law claims articulated in the NRD

Complaint pursuant to 28 U.S.C. § 1367. Venue lies in this District pursuant to Section 1017(b) of OPA, 33 U.S.C. § 2717(b), and 28 U.S.C. § 1391(b), because the Incident occurred in this judicial district. The Court has personal jurisdiction over Settling Defendant in connection with this action. For the purposes of this Consent Decree, and the underlying NRD Complaint, Settling Defendant waives all objections and defenses that it may have to jurisdiction of the Court or to venue in this District. Settling Defendant shall not challenge this Court's jurisdiction to enter and enforce this Consent Decree.

III. PARTIES BOUND

2. This Consent Decree is binding upon the United States and the State, and upon Settling Defendant and its successors and assigns. Any change in ownership or corporate or other legal status, including, but not limited to, any transfer of assets or real or personal property, shall in no way alter the status or responsibilities of Settling Defendant under this Consent Decree. In any action to enforce this Consent Decree, the Settling Defendant shall not raise as a defense the failure by any of its officers, directors, employees, agents, or contractors to take any actions necessary to comply with the provisions of this Consent Decree.

IV. DEFINITIONS

3. Unless otherwise expressly provided in this Consent Decree, terms used in this Consent Decree that are defined in OPA or in regulations promulgated under OPA at 15 C.F.R. Part 990 shall have the meaning assigned to them in OPA or in such regulations. Whenever terms listed below are used in this Consent Decree or its appendices, the following definitions shall apply:

a. “Commerce” shall mean the United States Department of Commerce and any successor departments, agencies, or instrumentalities.

b. “Consent Decree” shall mean this Consent Decree and all appendices attached hereto (listed in Section XVIII (Integration / Appendices)). In the event of conflict between this Consent Decree and any appendix, this Consent Decree shall control.

c. “Conservation Servitude” shall mean the Grant of Conservation Servitude required to be executed and recorded under Paragraph 11 of this Consent Decree, in substantially the same form and substance as Appendix B hereto.

d. “Date of Lodging” shall mean the date the proposed Consent Decree is filed with the Court as an attachment to a Notice of Lodging of Consent Decree, pending public comment as required in Section XXI (Lodging and Opportunity for Public Comment).

e. “Day” or “day” shall mean a calendar day. In computing any period of time under this Consent Decree, where the last day would fall on a Saturday, Sunday, or Federal or State holiday, the period shall run until the close of business of the next working day.

f. “DOI” shall mean the United States Department of the Interior and any successor departments, agencies, or instrumentalities.

g. “DOJ” shall mean the U.S. Department of Justice and any successor departments, agencies, or instrumentalities.

h. “Effective Date” shall mean the effective date of this Consent Decree as provided by Section XIX of this Consent Decree (Effective Date and Retention of Jurisdiction).

i. “Interest” shall mean the most recent interest rate determined pursuant to 28 U.S.C. § 1961. Interest shall be simple interest calculated on a daily basis.

- j. “Louisiana NRRTF” shall mean LOSCO’s Natural Resource Restoration Trust Fund established by La. R.S. 30:2480.2 for the receipt of NRDA restoration monies.
- k. “Natural Resources” shall have the meaning provided in Section 1001(20) of OPA, 33 U.S.C. § 2701(20).
- l. “Natural Resource Damages” shall have the meaning provided in Section 1002(b)(2)(A) of OPA, 33 U.S.C. § 2702(b)(2)(A).
- m. “NRD Complaint” shall mean the civil complaint filed in this action by the United States and the State of Louisiana concurrently with lodging of this Consent Decree.
- n. “NRDAR Fund” shall mean DOI’s Natural Resource Damage Assessment and Restoration Fund.
- o. “Paragraph” shall mean a portion of this Consent Decree identified by an Arabic numeral or an upper case letter.
- p. “Parish” shall mean Plaquemines Parish, Louisiana.
- q. “Parties” shall mean the United States, the State of Louisiana, and Settling Defendant.
- r. “Plaintiffs” shall mean the United States and the State of Louisiana.
- s. “Section” shall mean a portion of this Consent Decree identified by a Roman numeral.
- t. “Settling Defendant” shall mean AMERICAN COMMERCIAL BARGE LINE LLC.
- u. “State” shall mean the State of Louisiana.
- v. “State Trustees” shall mean LOSCO, LDNR, LDEQ, LDWF, and CPRA, collectively.

w. “Subparagraph” shall mean a portion of this Consent Decree identified by a lower case letter or an Arabic numeral in parentheses.

x. “Trustees” shall mean Commerce acting through NOAA, DOI acting through FWS, and the State Trustees.

y. “United States” shall mean the United States of America and each department, agency, and instrumentality of the United States, including Commerce and DOI.

z. “Woodlands Parcel” shall mean the real property parcel of approximately 649.11 acres in Plaquemines Parish, Louisiana near English Turn, a legal description of which is appended to this Consent Decree as Appendix C.

V. STATEMENT OF PURPOSE

4. By entering into this Consent Decree, the mutual objectives of the Parties are for Settling Defendant (i) to contribute to the restoration, replacement, or acquisition of the equivalent of the Natural Resources allegedly injured, destroyed, or lost as a result of the Incident; (ii) to reimburse Natural Resource Damages assessment and restoration planning costs incurred by FWS, NOAA, and the State Trustees; and (iii) to resolve its alleged civil liability for Natural Resource Damages as provided herein.

VI. PAYMENTS BY SETTLING DEFENDANT

5. Payments for Past Assessment and Restoration Planning Costs. Settling Defendant has paid a total of \$1,320,961.72 for the Trustees’ past assessment and restoration planning costs, as described below:

a. Payment for United States' Past Assessment and Restoration Planning Costs. Defendant has reimbursed Federal Trustee past assessment and restoration planning costs in the following amounts: \$100,811.98 to DOI and \$571,829.68 to NOAA.

b. Payment for State's Past Assessment and Restoration Planning Costs. Defendant has reimbursed the State of Louisiana's past assessment, restoration planning, and removal costs in the amount of \$648,320.06.

6. Payment for Trustee-Implemented Natural Resource Restoration. Within 45 Days after the Title Transfer required by Paragraph 10, Settling Defendant shall pay to the Trustees \$2,071,212 to fund Trustee-implemented natural resource restoration efforts allocated as follows:

a. Settling Defendant shall pay to the United States a total of \$200,000. Payment shall be made by FedWire Electronic Funds Transfer ("EFT") to the DOJ account, in accordance with instructions provided to Settling Defendant by the Financial Litigation Unit ("FLU") of the United States Attorney's Office for the Eastern District of Louisiana after the Effective Date. The payment instructions provided by the FLU will include a Consolidated Debt Collection System ("CDCS") number, which Settling Defendant shall, along with DOJ Case Number 90-5-1-1-10875/1, use to identify all payments required to be made in accordance with this Consent Decree. The FLU will provide the payment instructions to: Nicoletti Hornig & Sweeney to the attention of John A.V. Nicoletti at jnicoletti@nicolettihornig.com on behalf of Settling Defendant. Settling Defendant may change the individual to receive payment instructions on its behalf by providing written notice of such change to the United States, NOAA, and DOI in accordance with Section XVI (Notices and Submissions). The total amount paid shall be deposited in a segregated sub-account within the NRDAR Fund, to be managed by DOI for the benefit and use of the Trustees to pay for Federal Trustee oversight and

administration of restoration planning and implementation and the administration of general Federal Trustee responsibilities in accordance with Section VIII (Trustee-Implemented Natural Resource Restoration).

b. Settling Defendant shall pay to the State of Louisiana a total of \$1,871,212. Payment shall be made by EFT to the account specified by LOSCO after the Effective Date. The payment should reference “Gretna/Mississippi River LA2008_0723_0230”. LOSCO will provide the payment instructions to: Nicoletti Hornig & Sweeney to the attention of John A.V. Nicoletti at jnicoletti@nicolettihornig.com on behalf of Settling Defendant. Settling Defendant may change the individual to receive payment instructions on its behalf by providing written notice of such change to the State Trustees in accordance with Section XVI (Notices and Submissions). The total amount paid shall be deposited in a segregated sub-account within the State of Louisiana’s Natural Resource Restoration Trust Fund (“NRRTF”) to be managed by LOSCO for the benefit and use of the Trustees to pay for Trustee-implemented natural resource restoration efforts, State Trustee oversight and administration of restoration planning and implementation, and the administration of general State Trustee responsibilities in accordance with Section VIII (Trustee-Implemented Natural Resource Restoration).

7. Notice of Payment. Upon making any payment under Paragraph 6, Settling Defendant shall send written notice to the United States and the State, in accordance with Section XVI (Notices and Submissions), that payment has been made, and, for payments to the United States, reference the relevant civil action number, CDCS number, and DOJ case number 90-5-1-1-10875/1.

8. Interest. In the event any payment required pursuant to Paragraph 6 is not made when due, Settling Defendant shall pay Interest on the unpaid balance commencing on the

payment due date and accruing through the date of full payment. Payment shall be made in accordance with the instructions provided in the Subparagraph that corresponds to the unpaid amount(s). Payments of Interest made under this Paragraph shall be in addition to such other remedies or sanctions available to Plaintiffs by virtue of Settling Defendant's failure to make timely payments under this Section including, but not limited to, payment of stipulated penalties pursuant to Paragraph 25.

VII. SETTling DEFENDANT'S RESTORATION PROJECT OBLIGATIONS

9. Woodlands Parcel Bid. On June 24, 2021, Plaquemines Parish approved the sale of the Woodlands Parcel to the Woodlands Conservancy on a restricted use basis requiring maintenance and preservation of existing wetlands and bottomland hardwoods for ecological conservation, wetlands education, and passive public recreational use.

10. Title Transfer. Settling Defendant shall take all actions necessary to ensure that fee simple title to the Woodlands Parcel is transferred from Plaquemines Parish to the Woodlands Conservancy within 60 Days of the Effective Date.

11. Conservation Servitude. Settling Defendant shall take all actions necessary to ensure that a Conservation Servitude, in substantially the same form and substance as Appendix B, is executed and recorded with the Register of Deeds, Plaquemines Parish, Louisiana within 60 Days of the Effective Date.

12. Notice of Completion. No later than 30 Days after completion of its obligations under Sections VI and VII of this Consent Decree ("Obligations"), Settling Defendant shall send written notice to the United States and the State, in accordance with Section XVI (Notices and Submissions) that the Obligations are completed in full compliance with the requirements of this

Consent Decree. The notice of completion shall include the certification set forth in Section XVII.

13. Certification of Completion of Settling Defendant's Obligations. No later than 60 Days after the date of the Trustees' receipt of Settling Defendant's Notice of Completion under Paragraph 12, the Trustees shall evaluate the Notice of Completion, and if the Trustees agree that the Settling Defendant has met its Obligations under this Consent Decree, the Trustees shall issue a Certification of Completion of Settling Defendant's Obligations.

VIII. TRUSTEE-IMPLEMENTED NATURAL RESOURCE RESTORATION

14. Management and Application of Funds. All funds deposited in a segregated sub-account within the NRDAR Fund or the Louisiana NRRTF under Paragraph 6 shall be managed by DOI and LOSCO for the joint benefit and use of the Trustees to pay for Trustee-implemented natural resource restoration efforts in accordance with this Consent Decree. All such funds shall be applied toward the costs of restoration, rehabilitation, or replacement of injured Natural Resources, or acquisition of equivalent resources, including but not limited to any administrative costs and expenses such as drafting restoration plans, providing opportunity for public awareness and input, executing agreements for project implementation, conducting monitoring and oversight activities, maintaining an administrative record, and administratively closing the case.

15. Restoration Planning. The Trustees have prepared a Damage Assessment and Restoration Plan ("Plan") describing how the funds dedicated to Trustee-implemented natural resource restoration efforts under this Section are intended to be used. That Plan identifies how funds are intended to be used for restoration, rehabilitation, replacement, or acquisition of equivalent resources. The Plan also identifies how funds are intended to be used to address

services lost to the public until restoration, rehabilitation, replacement, or acquisition of equivalent resources is completed. A copy of the Plan is attached as Appendix A to this Consent Decree.

16. The Trustees have agreed to allocate the settlement funds paid under Paragraph 6 for Trustee-implemented natural resource restoration and Trustee oversight and administrative responsibilities in accordance with the Plan as follows:

<u>Trustee Estimated Project Cost Categories</u>	<u>Allocation</u>
Restoration and management of the wetlands and bottomland hardwoods habitats on the acquired Woodlands Parcel	\$487,479
Protection and preservation of the ecological benefits of the Woodlands Parcel acquisition and of the restoration and management of the Woodlands Parcel through the enforcement of a Conservation Servitude	\$84,819
Marsh creation via a crevasse splay in the Pass-A-Loutre State Wildlife Management Area	\$500,000
Restoration to compensate for injuries to recreational fishing resources and services	\$412,482
Passive recreational use improvements at the Woodlands Parcel	\$68,182
<u>Trustee Estimated Oversight and Administration Cost Categories</u>	
NOAA	\$100,000
DOI	\$100,000
State Trustees	\$318,250
TOTAL Estimated Costs	\$2,071,212

Decisions regarding any use or expenditure of funds under this Section, including any changes to the above allocation, shall be made by all Trustees, acting through consensus. Any funds dedicated above, along with any accrued interest, that have not been spent and remain unobligated once the Trustee-implemented restoration described in the Plan is complete shall be retained by the Trustees to fund additional Natural Resources restoration and any related Trustee oversight and administration of restoration planning and implementation costs.

17. Settling Defendant shall not be entitled to dispute, in any forum or proceeding, any decision relating to use of funds or restoration efforts under this Section. Settling Defendant shall have no liability whatsoever arising out of any disputes and/or disagreements among or between the Trustees relating to the use or expenditures of funds. If, after the Effective Date, the Trustees need to amend or supplement the Plan for any reason, the Trustees may do so without notice to the Settling Defendant and without notice to, or approval by, the Court. Where appropriate, the Trustees will provide the public notice and an opportunity to comment on any post-settlement changes or updates to the Restoration Project and/or the Plan.

IX. FORCE MAJEURE

18. “Force majeure,” for purposes of this Consent Decree, is defined as any event arising from causes beyond the control of Settling Defendant that delays or prevents the performance of any obligation under this Consent Decree despite Settling Defendant’s best efforts to fulfill the obligation. The requirement that Settling Defendant exercise “best efforts to fulfill the obligation” includes using best efforts to anticipate any potential force majeure and best efforts to address the effects of any potential force majeure (a) as it is occurring and (b) following the potential force majeure such that the delay and any adverse effects of the delay are minimized to the greatest extent possible. Force majeure does not include financial inability to complete the work under this Consent Decree or comply with any obligation of this Consent Decree.

19. If any event occurs or has occurred that may delay the performance of any obligation under this Consent Decree for which Settling Defendant intends or may intend to assert a claim of force majeure, Settling Defendant shall notify the Trustees identified in Section

XVI (Notices and Submissions), by email, within 14 Days of when Settling Defendant first knows that the event is reasonably likely to cause a delay. Within 14 Days thereafter, Settling Defendant shall provide in writing to the Trustees an explanation and description of the reasons for the delay; the anticipated duration of the delay; all actions taken or to be taken to prevent or minimize the delay; a schedule for implementation of any measures to be taken to prevent or mitigate the delay or the effect of the delay; Settling Defendant's rationale for attributing such delay to a force majeure. Settling Defendant shall include with any notice all available documentation supporting its claim that the delay was attributable to a force majeure. Settling Defendant shall be deemed to know of any circumstance of which Settling Defendant, or any entity controlled by Settling Defendant, knew or should have known. Failure to comply with the above requirements regarding an event shall preclude Settling Defendant from asserting any claim of force majeure regarding that event, provided, however, that if the Trustees, despite the late or incomplete notice, are able to assess to their satisfaction whether the event is a force majeure under Paragraph 18 and whether Settling Defendant has exercised its best efforts under Paragraph 18, the Trustees may, in their unreviewable discretion, excuse in writing Settling Defendant's failure to submit timely or complete notices under this Paragraph.

20. If the Trustees agree that the delay or anticipated delay is attributable to a force majeure, the time for performance of the obligations under this Consent Decree that are affected by the force majeure will be extended by the Trustees for such time as is necessary to complete those obligations. An extension of the time for performance of the obligations affected by the force majeure shall not, of itself, extend the time for performance of any other obligation. If the Trustees do not agree that the delay or anticipated delay has been or will be caused by a force majeure, the Trustees will notify Settling Defendant in writing of their decision. If the Trustees

agree that the delay is attributable to a force majeure, the Trustees will notify Settling Defendant in writing of the length of the extension, if any, for performance of the obligations affected by the force majeure.

21. If Settling Defendant elects to invoke the dispute resolution procedures set forth in Section X (Dispute Resolution) regarding the Trustees' decision, it shall do so no later than 30 Days after receipt of the Trustees' notice. In any such proceeding, Settling Defendant shall have the burden of proving that the delay or anticipated delay has been or will be caused by a force majeure, that the duration of the delay or the extension sought was or will be warranted under the circumstances, that best efforts were exercised to avoid and mitigate the effects of the delay, and that Settling Defendant complied with the requirements of Paragraphs 18 and 19. If Settling Defendant carries this burden, the delay at issue shall be deemed not to be a violation by Settling Defendant of the affected obligation of this Consent Decree.

X. DISPUTE RESOLUTION

22. The Trustees' determinations under Sections VII (Settling Defendant's Restoration Project Obligations), IX (Force Majeure), and XI (Stipulated Penalties), shall be final and binding unless within 30 Days after receipt of the Trustees' written notice of a force majeure or stipulated penalty determination, Settling Defendant invokes dispute resolution procedures of this Section by sending the Trustees a written notice specifying the nature of the dispute and requested relief ("Notice of Dispute").

23. Informal Dispute Resolution. Any dispute regarding this Consent Decree shall in the first instance be the subject of informal negotiations between the Trustees and Settling Defendant. The period for informal negotiations shall not exceed 60 Days from the time the

dispute arises, unless it is modified by written agreement of the Parties. A dispute shall be considered to have arisen when Settling Defendant sends the Trustees a written Notice of Dispute.

24. Formal Dispute Resolution.

a. In the event that the Parties cannot resolve a dispute by informal negotiations under the preceding Paragraph, then the position advanced by the Trustees shall be considered final and binding unless, within 30 Days after the conclusion of the informal negotiation period, Settling Defendant invokes the formal dispute resolution procedures of this Section by serving on the Trustees a written Statement of Position on the matter in dispute, including, but not limited to, any factual data, analysis, or opinion supporting that position and any supporting documentation relied upon by Settling Defendant.

b. Within 30 Days after receipt of Settling Defendant's Statement of Position, the Trustees will serve on the Settling Defendant their written Statement of Position, including, but not limited to, any factual data, analysis, or opinion supporting that position and all supporting documentation relied upon by the Trustees.

c. An administrative record of the dispute shall be maintained by the Trustees and shall contain all Statements of Position, including supporting documentation, submitted pursuant to this Section. The Trustees and Settling Defendant each shall identify Formal Dispute Resolution Representatives who shall meet to discuss the matter in dispute at the earliest available opportunity and will work in good faith to resolve the matter in dispute. If the Parties fail to resolve the dispute within 30 Days after the initial meeting of the Formal Dispute Resolution Representatives, then the position advanced by the Trustees in their Statement of Position shall be considered binding upon Settling Defendant, subject to any agreements the

Formal Dispute Resolution Representatives may have reached on one or more issues and further subject to Settling Defendant's right to seek judicial review pursuant to the following Subparagraph. In such event, the Trustees shall, within 10 Days after the conclusion of the formal dispute resolution process, notify Settling Defendant in writing that the formal dispute resolution process has concluded. Settling Defendant may seek judicial review of Trustees' Statement of Position (as modified by any agreements the Formal Dispute Resolution Representatives may have reached) pursuant to the following Subparagraph.

d. Any matter in dispute shall be reviewable by this Court, provided that a motion for judicial review of the decision is filed by Settling Defendant with the Court and served on all Parties within 30 Days after receipt of the Trustees' letter notifying Settling Defendant of the conclusion of the formal dispute resolution process. The motion shall include a description of the matter in dispute, the efforts made by the Parties to resolve it, the relief requested, and the schedule, if any, within which the dispute must be resolved to ensure orderly implementation of this Consent Decree. The Parties shall jointly move the Court to establish a schedule under which the Plaintiffs may file a response to Settling Defendant's motion within 30 Days after receipt of the motion, and Settling Defendant may file a reply brief within 21 Days after receipt of the response. If the Court does not grant the motion for such a schedule, then the Parties shall file the response and reply in accordance with the schedule set forth in the Local Rules for the Eastern District of Louisiana. Settling Defendant bears the burden of proving that the Trustees' position is arbitrary, capricious, contrary to law, or contrary to the provisions in this Consent Decree.

XI. STIPULATED PENALTIES

25. Settling Defendant shall be liable for stipulated penalties in the amount of \$2,000 per Day for each Day of noncompliance for failure to fulfill any obligation under Sections VI (Payments by Settling Defendant) and VII (Settling Defendant's Restoration Project Obligations) unless excused under Section IX (Force Majeure). "Compliance" by Settling Defendant shall include completion of all activities and obligations, including payments, required under this Consent Decree, in accordance with all applicable requirements of law.

26. All penalties shall begin to accrue on the day after performance or payment is due, or a violation occurs, whichever is applicable, and shall continue to accrue through the final date of satisfactory performance or payment, or until the violations cease. However, stipulated penalties shall not accrue with respect to judicial review by this Court of any dispute under Section X (Dispute Resolution), during the period, if any, beginning on the 31st day after the Court's receipt of the final submission regarding the dispute until the date that the Court issues a final decision regarding such dispute. Nothing in this Consent Decree shall prevent the simultaneous accrual of separate penalties for separate violations of this Consent Decree.

27. Settling Defendant shall pay stipulated penalties to the Plaintiffs within 60 Days of the date of mailing of a written demand by either Plaintiff, unless Settling Defendant invokes the Dispute Resolution procedures under Section X within the 30-Day period. Settling Defendant shall pay 50 percent of the total stipulated penalty amount due to the United States and 50 percent to the State. The Plaintiff making a demand for payment of a stipulated penalty shall simultaneously send a copy of the demand to the other Plaintiff. Penalties shall accrue as provided in the preceding Paragraph regardless of whether the Plaintiffs have notified Settling Defendant of a violation or made a demand for payment.

28. Settling Defendant shall pay stipulated penalties owing to the United States and the State in the manner set forth in Paragraph 6 (Payment for Trustee-Implemented Natural Resource Restoration), respectively, and with confirmation notice required by Paragraph 7.

29. Penalties shall continue to accrue as provided in Paragraph 26 during any dispute resolution period, but need not be paid until the following:

a. If the dispute is resolved by agreement of the Parties or by a decision of the Trustees that is not appealed to this Court, accrued penalties determined to be owed shall be paid to the Trustees within 60 Days after the agreement or the receipt of the Trustees' decision unless such agreement or decision provides that penalties are not due;

b. If the dispute is appealed to this Court and the Plaintiffs prevail in whole or in part, Settling Defendant shall pay all accrued penalties determined by the Court to be owed to the Plaintiffs within 60 Days after receipt of the Court's decision or order, except as provided in Paragraph 29(c);

c. If the District Court's decision is appealed by any Party, Settling Defendant shall pay all accrued penalties determined by the District Court to be owed to the Trustees into an Interest-bearing escrow account, established at a duly chartered bank or trust company that is insured by the Federal Deposit Insurance Company, within 60 Days after receipt of the Court's decision or order. Penalties shall be paid into this account as they continue to accrue, at least every 60 Days. Within 60 Days after receipt of the final appellate court decision, the escrow agent shall pay the balance of the account to the Plaintiffs or to Settling Defendant to the extent that they prevail.

30. If Settling Defendant fails to pay stipulated penalties when due, Settling Defendant shall pay Interest on the unpaid stipulated penalties as follows: (a) if Settling

Defendant has timely invoked dispute resolution such that the obligation to pay stipulated penalties has been stayed pending the outcome of dispute resolution, Interest shall accrue from the date stipulated penalties are due pursuant to Paragraph 29 until the date of payment; and (b) if Settling Defendant fails to timely invoke dispute resolution, Interest shall accrue from the date of demand under Paragraph 27 until the date of payment. If Settling Defendant fails to pay stipulated penalties and Interest when due, the United States or the State may institute proceedings to collect the penalties and Interest.

31. The payment of penalties and Interest, if any, shall not alter in any way Settling Defendant's obligation to make any payment required under this Consent Decree or to perform any other requirement of this Consent Decree.

32. Except as provided in Sections XII (Covenants Not to Sue by Plaintiffs) and XIII (Reservation of Rights by Plaintiffs), nothing in this Consent Decree shall be construed as prohibiting, altering, or in any way limiting the ability of the Plaintiffs to seek any other remedies or sanctions available by virtue of Settling Defendant's violation of this Consent Decree.

33. Notwithstanding any other provision of this Section, Plaintiffs may, in their unreviewable discretion, waive any portion of stipulated penalties that have accrued pursuant to this Consent Decree.

XII. COVENANTS NOT TO SUE BY THE PLAINTIFFS

34. Except as specifically provided by Paragraph 35 (General Reservations by the United States and the State) and Paragraph 36 (Special Reservations by the United States and the State Regarding Natural Resource Damages), the United States and the State covenant not to sue

or to take administrative action against Settling Defendant pursuant to Section 1002(a) and (b) of OPA, 33 U.S.C. § 2702(a) and (b), and Sections 2480, 2488, or 2489 of OSPRA, La. R. S. 30:2480, 2488, or 2489, for Natural Resource Damages resulting from the Incident. This covenant not to sue shall take effect upon the Effective Date of this Consent Decree. This covenant not to sue is conditioned upon the satisfactory performance by Settling Defendant of its obligations under this Consent Decree, including, as applicable, payments of stipulated penalties under Section XI (Stipulated Penalties). This covenant not to sue extends only to Settling Defendant and its successors and assigns (but only to the extent that the alleged liability of the successor or assign is based on the alleged liability of Settling Defendants), and does not extend to any other person.

XIII. RESERVATION OF RIGHTS BY PLAINTIFFS

35. General Reservations by the United States and the State. The United States and the State reserve, and this Consent Decree is without prejudice to, all rights against Settling Defendant and with respect to all matters not expressly included within Paragraph 34. Notwithstanding any other provisions of this Consent Decree, this agreement does not constitute resolution of Settling Defendant's liability for the following:

- a. claims based on a failure by Settling Defendant to meet a requirement of this Consent Decree;
- b. any potential claims against Settling Defendant for criminal liability associated with the Incident;
- c. claims against the Settling Defendant for Natural Resource Damages that are not a result of the Incident;

36. Special Reservations Regarding Natural Resource Damages. Notwithstanding any other provision of this Consent Decree, the United States and the State reserve the right to institute proceedings against Settling Defendant in this action or in a new action seeking recovery of Natural Resource Damages, including costs of damages assessment, based on:

(a) conditions resulting from the Incident, unknown by the Trustees as of the date of the lodging of this Consent Decree, that result in new or additional injury to, destruction of, loss of, or loss of use of such Natural Resources; or

(b) information received by the Trustees after the Date of Lodging of this Consent Decree that indicates that the Incident has resulted in injury to, destruction of, loss of, or loss of use of Natural Resources of a type or future persistence that was unknown to the Trustees as of the Date of Lodging of this Consent Decree.

For purposes of this Paragraph, conditions or information known to the Trustees at the Date of Lodging shall consist of any information that was in the files of, or otherwise in the possession of, any employee, contractor or consultant of one or more of the individual Trustees who worked on any Trustee's Natural Resource Damages assessment for the Incident addressed in this Consent Decree, including information submitted to the Trustees by Settling Defendant.

37. The United States expressly reserves, and the Settling Defendant expressly acknowledges, the right of the United States to institute proceedings, to take judgment thereon, and collect such judgment(s) thereon against the Settling Defendant in this action, to seek and recover costs and/or damages resulting from the Incident based on claims submitted to or filed against the United States pursuant to 33 U.S.C. § 2715(c), including claims against the Oil Spill Liability Trust Fund, after the date when this Decree is lodged with this Court.

38. This Consent Decree shall not preclude the United States or the State from instituting a separate or ancillary action to enforce the terms of this Consent Decree.

XIV. COVENANTS BY SETTLING DEFENDANT

39. Covenants by Settling Defendant. Settling Defendant hereby covenants not to sue and agrees not to assert any claims or causes of action against the United States or the State, and their employees, agents, contractors, departments, agencies, administrations and bureaus, related to Natural Resource Damages arising from the Incident, including, without limitation, any potential or pending claims against the Oil Spill Liability Trust Fund relating to the Incident or the Spill. This Paragraph 39 does not preclude Settling Defendant from filing a motion for judicial review under Section X (Dispute Resolution).

XV. EFFECT OF SETTLEMENT

40. Nothing in this Consent Decree shall be construed to create any rights in, or grant any cause of action to, any person not a Party to this Consent Decree. In addition, nothing in this Consent Decree shall limit, enlarge, or otherwise affect, the private rights or claims of any person not a Party to this Consent Decree, except as may be determined otherwise by a court of competent jurisdiction. Each of the Parties expressly reserves any and all rights (including, but not limited to, any right to contribution), defenses, claims, demands, and causes of action which each Party may have with respect to any matter, transaction, or occurrence relating in any way to the Incident against any person not a Party hereto. Nothing in this Consent Decree diminishes the right of the United States or the State to pursue any such persons to obtain additional Natural Resource Damages, response costs, or response actions.

41. In any subsequent administrative or judicial proceeding initiated by the United States or the State for injunctive relief, penalties, costs, damages, including without limitation Natural Resource Damages, criminal liability, or other appropriate relief relating to the Incident, Settling Defendant shall not assert, and may not maintain, any defense or claim based upon the principles of waiver, res judicata, collateral estoppel, issue preclusion, claim-splitting, or other defenses based upon any contention that the claims raised by the United States or the State in the subsequent proceeding were or should have been brought in the instant case; provided, however, that nothing in this Paragraph affects the enforceability of the Covenants by the United States or the State set forth in Section XII.

XVI. NOTICES AND SUBMISSIONS

42. Whenever, under the terms of this Consent Decree, notice is required to be given or a document is required to be sent by one Party to another, it shall be made in writing and directed to the individuals at the addresses specified below, unless those individuals or their successors give notice of a change to the other Parties in writing. Except as otherwise provided, notice to a Party by email (if that option is provided below) or by regular mail in accordance with this Section satisfies any notice requirement of the Consent Decree regarding such Party.

As to the United States:

EES Case Management Unit
U.S. Department of Justice
Environment and Natural Resources Division
P.O. Box 7611
Washington, DC 20044-7611
eescasemanagement.enrd@usdoj.gov
Re: DJ #90-5-1-1-10875/1

Corinna McMackin, Attorney-Advisor

National Oceanic and Atmospheric Administration
Office of General Counsel
Natural Resources Section
55 Great Republic Drive
Gloucester, MA 01930
corinna.mcmackin@noaa.gov

Brigette Beaton, Attorney Advisor
Office of the Regional Solicitor for
Interior Regions 2 and 4 U.S. Department of the Interior
75 Ted Turner Drive, Suite 304
Atlanta, GA 30303
brigette.beaton@sol.doi.gov

As to the State of Louisiana:

Kelli Braud, Attorney
Louisiana Oil Spill Coordinator's Office, on behalf of the State Trustees
7979 Independence Blvd., Suite 104
Baton Rouge, LA 70806
kelli.braud@la.gov

As to AMERICAN COMMERCIAL BARGE LINE LLC:

John A.V. Nicoletti, Esq.
Nicoletti Hornig & Sweeney
Wall Street Plaza
88 Pine Street, 7th Floor
New York, New York 10005
jnicoletti@nicolettihornig.com

XVII. CERTIFICATION

43. Each report, plan, or other document submitted by Settling Defendant pursuant to this Consent Decree or Appendices shall be signed by an official of Settling Defendant and include the following certification:

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the

information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I have no personal knowledge that the information submitted is other than true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

44. This certification requirement does not apply to emergency or similar notifications where compliance would be impractical.

XVIII. INTEGRATION / APPENDICES

45. This Consent Decree and its appendices constitute the final, complete, and exclusive understanding among the Parties with respect to the settlement embodied in this Consent Decree. The Parties acknowledge that there are no representations, agreements, or understandings relating to the settlement other than those expressly contained in this Consent Decree.

46. The following appendices are attached to and incorporated into this Consent Decree:

“Appendix A” is the Damage Assessment and Restoration Plan.

“Appendix B” is the Form of Conservation Servitude.

“Appendix C” is the legal description of the Woodlands Property.

XIX. EFFECTIVE DATE AND RETENTION OF JURISDICTION

47. This Consent Decree shall take effect upon the date upon which approval of this Consent Decree is recorded on the Court’s docket.

48. The Court shall retain jurisdiction over this matter for the purpose of interpreting and enforcing the terms of this Consent Decree.

XX. CONSENT DECREE MODIFICATIONS

49. Any material modification of this Consent Decree shall be made by agreement of the Parties to this Consent Decree and in writing, and shall not take effect unless approved by the Court. Any non-material modification of this Consent Decree shall be made by agreement of the Parties to this Consent Decree and in writing, and shall not take effect until filed with the Court. Nothing in this Consent Decree shall be deemed to alter the Court's power to enforce, supervise, or approve modifications to this Consent Decree.

50. The provisions of this Consent Decree are not severable. The Parties' consent hereto is conditioned upon the entry of the Consent Decree in its entirety without modification, addition, or deletion except as agreed to by the Parties.

51. Economic hardship or changed financial circumstances of Settling Defendant shall not serve as a basis for modifications of this Consent Decree.

XXI. LODGING AND OPPORTUNITY FOR PUBLIC COMMENT

52. This Consent Decree shall be lodged with the Court for a period of at least 30 Days for public notice and comment. The United States and the State reserve the right to withdraw or withhold its consent if comments regarding the Consent Decree disclose facts or considerations which indicate that this Consent Decree is inappropriate, improper, or inadequate. Settling Defendant consents to the entry of this Consent Decree without further notice.

53. If for any reason the Court should decline to approve this Consent Decree in the form presented, this agreement is voidable at the sole discretion of any Party and the terms of the agreement may not be used as evidence in any litigation between the Parties.

XXII. SIGNATORIES / SERVICE

54. Each undersigned representative of Settling Defendant, the United States, and the State certifies that he or she is authorized to enter into the terms and conditions of this Consent Decree and to execute and bind legally such Party to this document.


55. Settling Defendant agrees not to oppose entry of this Consent Decree by this Court or to challenge any provision of this Consent Decree, unless the United States or the State have notified Settling Defendant in writing that it no longer supports entry of the Consent Decree.

56. Settling Defendant shall identify on the attached signature page the name and address of an agent who is authorized to accept service of process by mail on its behalf with respect to all matters arising under or relating to this Consent Decree. Settling Defendant agrees to accept service in that manner and to waive the formal service requirements set forth in Rules 4 and 5 of the Federal Rules of Civil Procedure and any applicable local rules of this Court, including but not limited to service of a summons. The Parties agree that Settling Defendant need not file an answer to the NRD Complaint in this action unless or until 60 Days after the Court expressly declines to enter this Consent Decree.

XXIII. FINAL JUDGMENT

57. Upon entry of this Consent Decree by the Court, this Consent Decree shall constitute the final judgment between and among the United States, the State, and Settling Defendant. The Court enters this judgment as a final judgment under Fed. R. Civ. P. 54 and 58.

SO ORDERED New Orleans, Louisiana, this 18th day of November, 2021.



CARL J. BARBIER
UNITED STATES DISTRICT JUDGE

THE UNDERSIGNED PARTY enters into this consent decree in the matter of United States and State of Louisiana v. American Barge Commercial Line LLC:

FOR THE UNITED STATES OF AMERICA

TODD KIM
Assistant Attorney General
Environment and Natural Resources Division
U.S. Department of Justice

SCOTT
CERNICH

Digitally signed by
SCOTT CERNICH
Date: 2021.10.04
15:47:04 -04'00'

Date: 10/04/2021

SCOTT M. CERNICH (DC 479851), T.A.
Senior Counsel
Environmental Enforcement Section
Environment and Natural Resources Division
U.S. Department of Justice
P.O. Box 7611
Washington, DC 20044-7611
(202) 514-0056
scott.cernich@usdoj.gov

DUANE A. EVANS
United States Attorney
Eastern District of Louisiana

Date: 10/04/2021

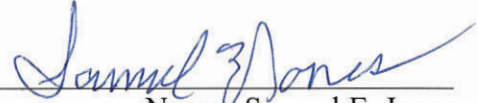
/s/ Peter M. Mansfield

Peter M. Mansfield
Assistant United States Attorney
Chief of the Civil Division
Office of the United States Attorney
650 Poydras Street, Suite 1600
New Orleans, LA 70130

THE UNDERSIGNED PARTY enters into this consent decree in the matter of United States and State of Louisiana v. American Barge Commercial Line LLC:

FOR THE STATE OF LOUISIANA

**LOUISIANA OIL SPILL COORDINATOR'S OFFICE,
DEPARTMENT OF PUBLIC SAFETY**

A handwritten signature in blue ink, appearing to read "Samuel E. Jones", is written over a horizontal line.

Name: Samuel E. Jones

Title: Louisiana Oil Spill Coordinator

Date: Sept 16, 2021

THE UNDERSIGNED PARTY enters into this consent decree in the matter of United States and State of Louisiana v. American Barge Commercial Line LLC:

COASTAL PROTECTION AND RESTORATION AUTHORITY



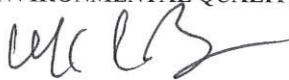
Name: Kyle R. "Chip" Kline, Jr.
Title: Chairman

Date: _____

9/13/21

THE UNDERSIGNED PARTY enters into this consent decree in the matter of United States and State of Louisiana v. American Barge Commercial Line LLC:

LOUISIANA DEPARTMENT OF ENVIRONMENTAL QUALITY



Name: Chuck Carr Brown, PhD.

Title: Secretary

Date: 9/16/2021

THE UNDERSIGNED PARTY enters into this consent decree in the matter of United States and State of Louisiana v. American Commercial Barge Line LLC:

LOUISIANA DEPARTMENT OF NATURAL RESOURCES




Name: Thomas F. Harris

Title: Secretary

Date: 9-16-2021

THE UNDERSIGNED PARTY enters into this consent decree in the matter of United States and State of Louisiana v. American Commercial Barge Line LLC:

LOUISIANA DEPARTMENT OF WILDLIFE AND FISHERIES

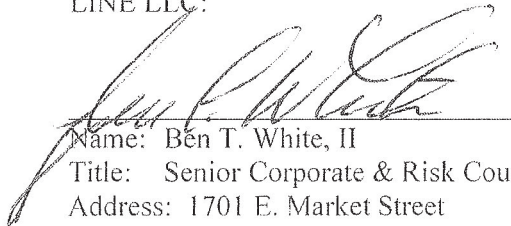

Name: Jack Montoucet
Title: Secretary

Date: 9/16/2021

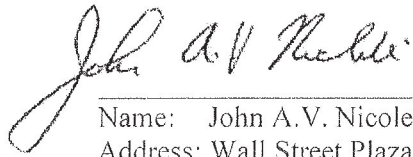
THE UNDERSIGNED PARTY enters into this consent decree in the matter of United States and State of Louisiana v. American Commercial Barge Line LLC:

FOR AMERICAN COMMERCIAL BARGE
LINE LLC:

9/9/2021
Dated


Name: Ben T. White, II
Title: Senior Corporate & Risk Counsel
Address: 1701 E. Market Street
Jeffersonville, IN 47103

Agent authorized to accept service on behalf of AMERICAN COMMERCIAL BARGE LINE
LLC:


Name: John A.V. Nicoletti
Address: Wall Street Plaza
88 Pine Street, 7th Floor
New York, New York 10005
Telephone Number: (212) 220-3830
Facsimile Number: (212) 220-3780